

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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ANTHONY BUTLER,

Case No. 2:12-cv-01682-MMD-GWF

Petitioner,

ORDER

v.

STATE OF NEVADA, *et al.*,

Respondents.

This action is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by Petitioner Anthony Butler, a Nevada state prisoner. In October 2012, this Court dismissed Petitioner's *pro se* petition because he had failed to exhaust any claims (ECF No. 4)¹ and entered judgment (ECF No. 6).

In June 2021, the Federal Public Defender entered a notice of appearance in this case and filed a motion for relief from final judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. (ECF No. 9 ("Motion").) The FPD has now moved to amend/correct the motion multiple times. (ECF Nos. 13, 14.) The FPD seeks to correct the Motion by including recently obtained state-court records and other documents as exhibits in support of the motion. Good cause appearing, Petitioner's two motions to correct the motion for relief from judgment are granted.

Petitioner has also filed two motions to seal certain exhibits in support of the Motion. (ECF Nos. 12, 16.) While there is a presumption favoring public access to judicial filings and documents, *see Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978), a party seeking to seal a judicial record may overcome the presumption by

¹Butler dispatched his federal habeas petition for filing on September 3, 2012, before his state judgment of conviction was entered on September 24, 2012 (see ECF No. 9, p. 4).

1 demonstrating “compelling reasons” that outweigh the public policies favoring disclosure,
2 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006)
3 (citations omitted). In general, “compelling reasons” exist where the records may be used
4 for improper purposes. *Kamakana*, 447 F.3d at 1179 (citing *Nixon*, 435 U.S. at 598). Here,
5 Petitioner asks to file the following documents under seal: Petitioner’s psychological
6 reports, Nevada Department of Corrections medical records, and juvenile record, all of
7 which contain confidential medical information. (ECF Nos. 12, 16.) Petitioner has
8 demonstrated compelling reasons to seal these records. Accordingly, the Court grants the
9 motions to seal (ECF Nos. 12, 16).

10 Finally, a review of the docket reveals that Respondents were never served with
11 the Petition, which was dismissed upon initial review under Rule 4 of the Rules Governing
12 § 2254 Cases. (See ECF No. 4.) Accordingly, Respondents will be served and will have
13 the opportunity to respond to the second corrected motion for relief from judgment in
14 accordance with the local rules.

15 The Clerk of Court is therefore directed to electronically serve the petition (ECF
16 No. 5) on Respondents.

17 The Clerk of Court is further directed to add Aaron D. Ford, Nevada Attorney
18 General, as counsel for Respondents and provide Respondents an electronic copy of all
19 items previously filed in this case by regenerating the Notice of Electronic Filing to the
20 office of the AG only.

21 It is further ordered that Petitioner’s second motion to amend/correct the motion
22 for relief from judgment (ECF No. 14) is granted.

23 The Clerk of Court is further directed to detach and file the proposed second
24 amended motion for relief from final judgment (ECF No. 14-1).

25 It is further ordered that Petitioner’s motion for relief from final judgment (ECF No.
26 9) is denied as moot.

27 It is further ordered that Petitioner’s first motion to amend/correct the motion for
28 relief from judgment (ECF No. 13) is granted.

1 The Clerk of Court is further directed to detach and file the proposed first amended
2 motion for relief from final judgment (ECF No. 13-1). It is further ordered that Petitioner's
3 first amended motion for relief from final judgment is granted *nunc pro tunc*.

4 It is further ordered that Petitioner's two motions for leave to file exhibits under seal
5 (ECF Nos. 12 and 16) are both granted.

6 DATED THIS 28th Day of February 2022.

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9 MIRANDA M. DU
10 CHIEF UNITED STATES DISTRICT JUDGE
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